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S E C R E T SECTION 01 OF 02 KABUL 003595

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SUBJECT: PROVINCIAL COUNCIL ELECTIONS: PLENTY OF FRAUD BUT
NO INVESTIGATORS

Classified By: PolCouns Annie Pforzheimer, Reasons 1.4 (b), (d).

11. (S) Summary: The sustained dispute between the Independent Election Commission (IEC) and the Electoral Complaints Commission (ECC) over the final percentages in the August 20 Afghan Presidential election appears to have hampered the ability and desire of either organization to investigate widespread fraud in the simultaneous Provincial Council elections. A comprehensive, independent analysis of fraud in each province exists, released to the U.S. Embassy November 8, but even with this information neither organization wants to activate its clear authority to investigate on its own initiative. Embassy Kabul is working with UNAMA to emphasize to both the importance of fulfilling their mandate. End Summary.

Pervasive Allegations of Widespread Fraud

12. (S) Persistent and highly credible allegations of fraud in the Provincial Council elections exist nationwide. The head of the IEC's Operations Unit told the Embassy that his inspection of results showed fraud in every province at levels even more pervasive than the Presidential election, suggesting the whole election should be re-run. Former Presidential candidate Abdullah Abdullah brought up his concerns about the Provincial Council elections at a November 8 breakfast with Ambassador Eikenberry. Abdullah said that Karzai's charade of claiming that international interference was behind all corruption complaints would not hold water with the Afghan people, since their compatriots in Nangarhar and Takhar, to name just two examples, are the ones taking issue with the Provincial Council elections.

13. (C) USAID-funded NGO Democracy International (DI), which had a modest observer presence here during the August 20 elections, used the Provincial Council results data from the IEC's website to extrapolate patterns of fraud. DI found abnormally high rates of candidate polling station results in multiples of exactly 100 (the number of ballots contained in one IEC ballot book), abnormally high rates of polling stations where candidates received 600 or more valid votes, and abnormally high rates of polling stations where candidates received 95 percent or more of the valid vote. All provinces showed some evidence of fraud, some apparently systemic and some only on behalf of a few candidates. (Note: DI did not analyze Nangarhar, a key province with regards to fraud, as that data is not yet available on the IEC website. End Note.)

14. (C) The provinces with evidence of heavy systemic fraud according to this DI study are: Ghazni, Ghor, Helmand, Kabul, Kandahar, Khost, Nuristan, Sar-e-Pul, Paktia, and Paktika. The provinces where fraud patterns indicate it was committed on behalf of a few top candidates are Laghman, Samangan, Takhar, Uruzgan, Wardak, Zabul, Herat, Logar, Nimroz, Baghlan, Faryab, Farah, Balkh, Badghis, Badakshan, and Kapisa. Only Bamyan, Daikundi, Jawzjan, Kunar, Parwan appear to have had comparatively low levels of suspicious results, but even in these provinces there was evidence of small

amounts of fraud, committed at a handful of polling stations.

The case of Nangarhar

15. (C) On October 8, a group of Nangarhar Provincial Council candidates came to the U.S. Embassy to raise their allegations of massive electoral irregularities. The candidates presented well-documented evidence of fraud they claimed had occurred both at polling stations and at IEC headquarters. The candidates complained they had received no assistance from the IEC or ECC and threatened to take to the streets in Jalalabad if their complaints were not investigated. On October 11, at an Elections Stakeholders meeting, when the IEC's Chief Electoral Advisor, Daoud Najafi, announced his plan to release Nangarhar Provincial Council preliminary results without further investigation Poloff requested a stay on the grounds that violence could ensue. Dr. Najafi agreed to withhold Nangarhar's results.

16. (C) On November 3 Dr. Najafi told Poloff that the IEC and ECC would dispatch a joint investigation team to Jalalabad from their headquarters to conduct a full recount of all Provincial Council ballots and that candidate agents would be allowed to observe. On November 8, the investigation began but with no ECC headquarters presence, and the ECC's Legal Advisor told us separately they had never planned to send personnel from their headquarters. Dr. Najafi later denied to us that he ever promised a "full" recount, and the ECC does not plan to hold the IEC to this standard.

Who Fixes What?

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17. (S) Both the IEC and the ECC have the right under the Electoral Law to investigate electoral irregularities in the absence of a formal complaint or challenge. Both organizations have investigated suspected fraud on their own initiative in previous elections. However, the IEC claims it must be ordered by the ECC to investigate fraud without specific complaints while the ECC claims that the IEC is the electoral administration body and should therefore take it upon itself to exclude from the results anything it deems suspicious, in accordance with international common practice and in accordance with the actions of the Joint Electoral Management Body (JEMB) in 2005, the IEC's precursor, which operated under all the same laws. When Poloff pointed out to IEC Advisor Najafi that the IEC had investigated fraud in the Presidential election without specific complaints in every instance, Najafi angrily stated that the IEC would do nothing on the PC results unless ordered by the ECC.

18. (S) For its part the ECC is, with good reason, claiming that the draw-down of the UN in Afghanistan following the October 28 attack has severely hampered its logistical and investigatory capacity. The ECC complains that neither the UN nor the International Federation for Electoral Systems (IFES) have done all they could to help the ECC retain investigators on their team that are coming up on the ends of their contracts now. (Comment: Contracts for investigators through IFES, paid for by USAID, are moving through Embassy processes and there will be no gaps in availability. End comment.) However, when asked if the ECC is prepared to do the necessary investigations provided that the USG is able to produce all the necessary resources, Scott Worden, ECC Commissioner, implied and ECC legal advisor Peter Lepsch said, that the answer would be "no." Both claim that it would be a departure from the ECC's definition of its own role for it to engage further. Both Worden and Lepsch have separately admitted that because the ECC has decided to only investigate specific complaints, much of the fraud will be missed. Peter Lepsch said that all complaints would be adjudicated by the end of the week and to go further would require the USG to convince all the Commissioners of the

need. When Poloff offered the DI study to the ECC as a roadmap for targeted investigations, Worden said the period for formal complaints against announced Provincial Council results was over and the report could not be accepted as evidence.

Comment

19. (S) Given this current standoff, with some implications of possible violent reactions by disgruntled PC candidates in high-conflict areas such as Ghazni, Kandahar and Nangarhar, we will work with UNAMA and others in the donor community to emphasize to both organizations the need to perform clean, transparent Provincial Council investigations with speed and accuracy.

EIKENBERRY